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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,078	11/26/2004	Roland Busses	BIG01 P498	5861
277	7590	06/26/2008	EXAMINER	
PRICE HENEVELD COOPER DEWITT & LITTON, LLP 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501			MICHENER, JOSHUA J	
			ART UNIT	PAPER NUMBER
			3644	
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			06/26/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/500,078	BUSSE, ROLAND	
	<b>Examiner</b>	<b>Art Unit</b>	
	JOSHUA J. MICHENER	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 17 March 2008.
- 2a)  This action is **FINAL**.                                  2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 20-85 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 21, 22, 28, 30, 31, 41, 42, 48-53, 61, 62 and 68-73 is/are allowed.
- 6)  Claim(s) 20, 23- 26, 34, 35, 36, 37, 40, 43 -46, 54, 55, 56, 57, 60 63-66, 74, 75 76, 77 ,and 80-85 is/are rejected.
- 7)  Claim(s) 27, 29, 32, 33, 38, 39, 47, 58, 59, 67, 78 and 79 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 6/23/2004 is/are: a)  accepted or b)  objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a)  All    b)  Some \*    c)  None of:
1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Bib Data Sheet</u> .                   |

**DETAILED ACTION*****Terminal Disclaimer***

The terminal disclaimer filed on 1/16/2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/500566 has been reconsidered, reviewed and is accepted. The terminal disclaimer has been recorded.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “the free ends of the grid bars of the cupola are connected to a screw ring that surrounds the outer cylinder” must be shown or the feature(s) canceled from the claim(s). The drawings fail to show “ends” that are “free” rather it appears the ends of the grid bars are integral to the screw ring 17. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet”

Art Unit: 3644

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 20, 23 – 26, 34, 35, 40, 43 – 46, 54, 55, 60, 63-66, 74, 75, and 80-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartzendruber (US 4,476,811) in view of Runion (US 5,101,766).**

1. Regarding claims 20, 40, and 60, SWARTZENDRUBER discloses a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, the pipe having at least one aperture, comprising: a bowl device configured to be suspended on the feed delivery pipe, the bowl device including a feed bowl located beneath a downpipe, the bowl device further including a cupola formed from grid bars in spoke fashion, wherein the downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder, on which the bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop, wherein the outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable manner on the

Art Unit: 3644

inner cylinder, and at least one lifting stop is provided for delimiting a lifting and lowering path of the bowl (see for example figures 5 – 7, col 3 lines 34 – 56 and col 4, lines 40 – 67).

SWARTZENDRUBER fails to teach the downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder; and wherein the outer cylinder features at least one spring-elastic engagement cam.

Runion discloses at least one rotational stop (44, 54, 70, 72, 74, 76, 78) delimiting a rotational path of an outer cylinder (50, 52) in relation to an inner cylinder (figure 20) wherein the outer cylinder features at least one spring elastic engagement cam (74, 76).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify SWARTZENDRUBER to comprise of a rotational stop in order to prevent relative rotation between the inner cylinder and outer cylinder as taught by Runion (col 5, lines 7 – 13).

2. Regarding claims 23, 24, 43, 44, 63, and 64 SWARTZENDRUBER discloses a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, the pipe having at least one aperture, comprising: a bowl device configured to be suspended on the feed delivery pipe, the bowl device including a feed bowl located beneath a downpipe, the bowl device further including a cupola formed from grid bars in spoke fashion, wherein the downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder, on which the bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop, wherein the outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable

Art Unit: 3644

manner on the inner cylinder, and at least one lifting stop is provided for delimiting a lifting and lowering path of the bowl (see for example figures 5 – 7, col 3 lines 34 – 56 and col 4, lines 40 – 67) wherein it is known to have the outer surface of an upper cylinder of the outer cylinder includes a threaded spindle (figure 7), and that free ends of the grid bars of the bowl cupola are connected to a screw ring (50, figure 7) which is screwed onto the outer cylinder having the threaded spindle.

SWARTZENDRUBER fails to teach the downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder; and wherein the outer cylinder features at least one spring-elastic engagement cam and the outer surface of an upper cylinder of the outer cylinder includes a threaded spindle, and that free ends of the grid bars of the bowl cupola are connected to a screw ring which is screw onto the outer cylinder having the threaded spindle.

Runion discloses it is known to have at least one rotational stop (44, 54, 70, 72, 74, 76, 78) delimiting a rotational path of an outer cylinder (50, 52) in relation to an inner cylinder (figure 20) wherein the outer cylinder features at least one spring elastic engagement cam (74, 76) that extends through portions of a screw ring.

All the component parts are known in Swartzendruber, and Runion. The only difference is the combination of the old elements into a single device by incorporating them into a feeder bowl system.

Thus, it would have been obvious to one having ordinary skill in the art to incorporate at least one rotational stop into the feeder of SWARTZENDRUBER as shown in Runion and also provide the outer cylinder with a threaded spindle as shown in Swartzendruber because the

Art Unit: 3644

rotational stop and threaded spindle could be used in combination with the standard feeder device in SWARTZENDRUBER to achieve the predictable results of providing a rotational stop when needed while also allowing for threaded rotation of the cylinder with ring and bowl cupola for adjusting feed levels.

3. Regarding claims 25, 45, and 65, SWARTZENDRUBER, as modified, discloses the apparatus as claimed above wherein each engagement cam is spring elastic in a radial direction (figure 2, Runion).

4. Regarding claims 26, 46, and 66, SWARTZENDRUBER, as modified, discloses the apparatus as claimed above, comprising a screw ring of the bowl cupola includes cut-outs on its inner circumference surface with which the engagement cams are capable of engaging with positive fit (see Runion figure 2, the interior holes on the screw ring which the engagement cams fit through).

5. Regarding claims 34, 35, 54, 55, 74, and 75, SWARTZENDRUBER discloses a device for the feeding of free-range poultry kept in a coop with at least one feed delivery pipe held above a floor of the coop and capable of being raised and lowered, the pipe having at least one aperture, comprising: a bowl device configured to be suspended on the feed delivery pipe, the bowl device including a feed bowl located beneath a downpipe, the bowl device further including a cupola formed from grid bars in spoke fashion, wherein the downpipe comprises an inner cylinder configured to depart from the aperture and an outer cylinder encompassing the inner cylinder, on which the bowl is suspended by the grid bars of the bowl cupola in such a way that, when the feed delivery pipe is lowered, the bowl comes to rest on the floor of the coop, wherein the outer cylinder is guided in a rotatable manner as well as in a raisable and lowerable

Art Unit: 3644

manner on the inner cylinder, and at least one lifting stop is provided for delimiting a lifting and lowering path of the bowl (see for example figures 5 – 7, col 3 lines 34 – 56 and col 4, lines 40 – 67).

SWARTZENDRUBER fails to teach the downpipe includes at least one rotational stop delimiting a rotational path of the outer cylinder in relation to the inner cylinder; and wherein the outer cylinder features at least one spring-elastic engagement cam and the feed bowl includes a feed plate; and the feed plate includes a plate edge having connecting elements for connecting the feed plate to the bowl cupola.

Runion discloses at least one rotational stop (44, 54, 70, 72, 74, 76, 78) delimiting a rotational path of an outer cylinder (50, 52) in relation to an inner cylinder (figure 20) wherein the outer cylinder features at least one spring elastic engagement cam (74, 76) and a feed bowl includes a feed plate (18, figure 5); and the feed plate includes a plate edge (figure 2) having connecting elements (90, 86, 88, 94, 92) for connecting the feed plate to the bowl cupola wherein the connecting elements include a flap joint (groove formed by 86, 88, 90) and a retaining hinge element (94).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify SWARTZENDRUBER to comprise of a rotational stop in order to prevent relative rotation between the inner cylinder and outer cylinder as taught by Runion (col 5, lines 7 – 13) and it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify SWARTZENDRUBER to have a feed plate with connecting elements and retainer in order to provide a secure means to attach the bowl cupola to the feed plate while also provide a hinge for purposes of cleaning.



Art Unit: 3644

Regarding claims 81 – 85, Swartzendruber, as modified, discloses the apparatus as claimed above, wherein Swartzendruber discloses grid bars that are attached to the screw ring that surrounds the outer cylinder (figures 5 – 7).

**Claims 36, 37, 56, 57, 76, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over SWARTZENDRUBER in view of Runion as applied above, and further in view of Van Zee et al. (US 5,097,797).**

6. Regarding claims 36, 37, 56, 57, 76, and 77, SWARTZENDRUBER , as modified, discloses the apparatus as claimed above, but fails to teach of a ring surface in the plate that is subdivided into feeding sections each being a pocket delimited by depression or elevation.

Van Zee et al. discloses a feed plate with a ring surface subdivided into feeding section being pockets with depression or elevation (80, figures 1 – 4).

Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify SWARTZENDRUBER to comprises of a feed plate subdivided into pockets to further reduce the amount of feed in a restricted feeding mode as taught by Van Zee (col 2, lines 15 – 20).

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***Allowable Subject Matter***

Claims 21,22, 28, 30, 31, 41,42,48-53,61,62 and 68-73 are allowed.

Art Unit: 3644

Claims 27,29,32,33,38,39,47,58,59,67,78 and 79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed 3/17/2008 have been fully considered but they are not persuasive.

In response to Applicant's arguments that the Examiner defined two elements with the same reference numerals. It should be noted, Applicant is reminded that the claim construct utilizes "comprising" type language, And as such, the Examiner explains that Runion discloses it is known to have at least one rotational stop (44, 54, 70, 72, 74, 76, 78) delimiting a rotational path of an outer cylinder (50, 52) in relation to an inner cylinder (figure 20) wherein the outer cylinder features at least one spring elastic engagement cam (74, 76) that extends through portions of a screw ring. Thus, the rotation stop (44, 54, 70, 72, 74, 76, 78) comprises at least one spring elastic cam which has the elements (74, 76). The Examiner fails to see how this is improper. As it is a comprising type claim, the Examiner asserts it is a proper broad interpretation that the rotational stop can comprise the spring elastic cam which is a feature with the outer cylinder as there is NO claim language that precludes such an interpretation.

In response to Applicant's arguments that it would not have been obvious to combine Swartzendruber in view of Runion because Swartzendruber teaches away from a rotational stop and that Swartzendruber would not function as intended to automatically raise and lower. The Examiner respectfully disagrees on multiple accounts. First, the Examiner asserts that

Art Unit: 3644

Swartzendruber actually suggests it would be beneficial to have a rotational stop in order to avoid excess consumption by the poultry, "If the poultry accidentally or intentionally cause this rotation, any feed bridges within the drop tube 31 or at the feed gates G-1 or G-2 can be broken, and temporarily pent-up feed will flow into the pan for consumption." (col 5, line 66 - col 6, line 3). Runion then discloses a known rotational stop, the Examiner holds it would be obvious for one of ordinary skill in the art at the time the invention was made to modify to combine Swartzendruber with the stop of Runion. Secondly, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In the instant case, AS CLAIMED, Swartzendruber in view of Runion meets the broadly recited structural elements thus meets the claim. Lastly, Applicant's own invention can be both locked and also have a free rotatable arrangement (paragraphs 27 - 28), thus the Examiner asserts that AS CLAIMED Applicant's invention must also be able to perform such tasks unless there is some omission of essential elements in the claim, but irregardless as claimed Swartzendruber in view of Runion meets the structure thus meets the scope of the claim.

It should be noted, Applicant inadequately traversed the rejection of claims 36, 37, 56, 57, 76, and 77. Claims 36, 37, 56, 57, 76, and 77 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Swartzendruber '811 patent in view of the Runion '766 patent and U.S. Patent No. 5,097,797 to Van Zee et al. "Claims 36, 37, 56, 57, 76 and 77 depend from claims 34, 54 or 74, and since claims 34, 54 and 74 define unobvious patentable subject matter as

Art Unit: 3644

discussed above, claims 36, 37, 56, 57, 76 and 77 define patentable subject matter.” Applicant fails to specifically point out the errors in the Examiner’s rejection of claims 36, 37, 56, 76, and 77, rather relied on the alleged unobviousness of the rejected base claims, the Examiner asserts the rejections as set forth above were obvious and proper, and as such, the rejection of claims 36, 37, 56, 57, 76, and 77 are admittedly proper.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA J. MICHENER whose telephone number is (571)272-1467. The examiner can normally be reached on Monday through Friday 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/  
Supervisory Patent Examiner, Art Unit  
3644

/J. J. M./